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Date
6 December 2024

Post Office
100 Wood Street
London EC2V 9ER

Your Ref: [Redacted]

Classification:
Public

Dear [Redacted],

Freedom of Information Request – FOI2024/01548

We are writing in response to your email received by Post Office Limited (**“Post Office”**) on 19 November, which has been dealt with under the terms of the Freedom of Information Act 2000 (**“FOIA”**).

In your email, you have requested the information shown verbatim in bold below:

“Post Office Data Breach

A copy of POL’s notification to the ICO in accordance with its obligations under Article 33 of the UK GDPR, together with all subsequent substantive correspondence with the ICO.”

We have interpreted “subsequent substantive correspondence with the ICO” as referring to the letters and attachments shared with the Information Commissioner’s Office (**“ICO”**), relating to the data breach that Post Office became aware of on 19 June 2024 (**“the data breach”**). We can confirm that Post Office does hold the information you have requested.

However, we consider that Post Office’s correspondence with the ICO should be withheld under section 31(1)(g) and 31(2)(c), relating to a public authority exercising its functions to ascertain whether regulatory action would be justified; and section 40, relating to personal data.

The information you have requested falls under the exemption in section 31(1)(g) and 31(2)(c) of the FOIA, as the correspondence with the ICO is to ensure the ICO can exercise their regulatory functions to ascertaining whether circumstances would justify regulatory action. This exemption is engaged because providing the information will prejudice the investigation being carried out by the ICO, as the regulatory body for information rights.

In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosure. On the one hand, we recognise that there is a general public interest in disclosure of information between Post Office and the ICO relating to the data breach, as this enhances transparency about the circumstances and provides clarity on how this incident happened. Disclosure would also assist in helping the public understand the actions taken since the data breach was discovered. Further to this, Post Office also understands that there is an increased public interest in the organisation due particularly to the ongoing Post Office Horizon IT Inquiry, and disclosure would also assist the public in understanding more about the Post Office ways of working.

On the other hand, there is a strong public interest in withholding information concerning correspondence with the ICO about the data breach, as disclosure of the information would prejudice the investigation of the incident. Post Office understand that the ICO would also publish any adverse regulatory decision with reasoning, including any regulatory action, which would serve the public interest.

The ICO exercises a number of statutory functions for the purpose of ascertaining whether a data controller or public authority has failed to comply with the law, and or for the purpose of ascertaining whether circumstances exist or may arise which would justify regulatory action in relation to relevant legislation. These regulatory functions are set out in statute within the data protection legislation – namely the UK General Data Protection Regulation (“UKGDPR”) and the Data Protection Act 2018 (“DPA”).

As of 19 November 2024 (the date of this FOIA request), the investigation is still ongoing and releasing the requested information at this time would prejudice the ICO’s ability to conduct its investigation fairly and in an appropriate manner. Disclosure would have a substantial and detrimental impact on the ICO’s ability to operate as an effective regulator and there is a clear and significant public interest in not undermining the operation of the ICO as regulator of information rights

legislation. Post Office made a statement regarding the data breach and is fully co-operating with the ICO's investigation. Accordingly, Post Office has determined that the balance of interests firmly lies in maintaining the exemption.

Information within the correspondence relating to personal data should also be withheld under sections 40(2) and 40(3A) of the FOIA, as the information constitutes personal data relating to other persons. These sections exempt personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the UKGDPR.

We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because the information relates to employees who would not reasonably expect their names, roles and contact details to be disclosed in relation to this request for information.

If you are dissatisfied with the handling of this response, you do have a right to request an internal review. You can do this by writing to the address above within 40 working days of receipt of this response stating your reasons for your internal review request or alternatively, by emailing information.rights@postoffice.co.uk.

If, having requested an internal review by Post Office, you are still not satisfied with our response you also have a right of appeal to the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Telephone: 0303 123 1113
www.ico.org.uk/foicomplaints

Yours sincerely,

Information Rights Team

information.rights@postoffice.co.uk

<https://corporate.postoffice.co.uk/en/governance/access-to-information/access-to-information/>

Post Office Limited is committed to protecting your privacy, information about how we do this can be found on our website at www.postoffice.co.uk/privacy